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APR 22 1932

CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. 27

THE STEWART DRY GOODS COMPANY, - *Appellant,*

v.

JOHN B. LEWIS, SELDEN R. GLENN AND HENRY M. CLINE, INDIVIDUALLY AND AS MEMBERS OF THE STATE TAX COMMISSION OF THE COMMONWEALTH OF KENTUCKY, AND

J. DAN TALBOTT, INDIVIDUALLY AND AS AUDITOR OF PUBLIC ACCOUNTS OF THE COMMONWEALTH OF KENTUCKY, - - - - - - *Appellees.*

STATEMENT AS TO BASIS OF JURISDICTION ON APPEAL.

ROBERT S. MARX, Cincinnati, O.,
FRANK E. WOOD, " "
HARRY KASFIR, " "
JOHN C. DOOLAN, Louisville, Ky.,
JAMES W. STITES, " "
Solicitors for Appellant.

WESTERFIELD-BONTE COMPANY, INCORPORATED, LOUISVILLE, KY.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. 828.

THE STEWART DRY GOODS COMPANY, - *Appellant,*

versus

JOHN B. LEWIS, SELDEN R. GLENN AND HENRY M. CLINE, INDIVIDUALLY AND AS MEMBERS OF THE STATE TAX COMMISSION OF THE COMMONWEALTH OF KENTUCKY, AND J. DAN TALBOTT, INDIVIDUALLY AND AS AUDITOR OF PUBLIC ACCOUNTS OF THE COMMONWEALTH OF KENTUCKY, - - - - - *Appellees.*

STATEMENT AS TO BASIS OF JURISDICTION ON APPEAL.

In compliance with Rule 12 of this Court, this statement is filed as to the basis of this Court's jurisdiction of this cause on appeal.

(a) This suit was brought by appellant against the appellees, public officials of the Commonwealth of Kentucky, to enjoin them from enforcing or executing against appellant, and other taxpayers similarly situated, the provisions of a taxing statute enacted by the

General Assembly at its 1930 session, being Chapter 149 of the Session Acts of 1930, on the ground that such statute is violative of the Federal Constitution and the State Constitution in various respects therein set forth, and therefore void.

Appellant sought and obtained in the court below a restraining order, and pressed to a hearing an application for an interlocutory injunction to restrain the appellees from enforcing said Act.

A statutory court of three Judges was convened to hear said cause and all motions therein, pursuant to the provisions of Section 266, Judicial Code as amended, now Section 380 of Title 28, U. S. Code.

After notice and hearing, as therein required, the court below entered its order denying the motion of appellant for an interlocutory injunction and entered its decree denying a permanent injunction and dismissing the Bill of Complaint, but continued the restraining order in effect pending the hearing of this appeal.

This appeal has been taken from

(1) The decree denying appellant a permanent injunction and dismissing its Bill of Complaint, solely on the ground that appellant has an adequate remedy at law, and

(2) The order denying its application for an interlocutory injunction on the same ground.

By the provisions of Section 266, Judicial Code, now U. S. Code, Title 28, Section 380, and the provisions of Section 238, Judicial Code, now U. S. Code, Title 28, Section 345, a direct appeal to this Court from the

statutory court of three Judges is allowed from that court's order denying after notice and hearing an interlocutory injunction in this case.

In like manner, a direct appeal to this Court is by said sections allowed from the final decree therein denying a permanent injunction and dismissing the Bill of Complaint.

(b) The decree sought to be reviewed herein was entered on December 9, 1931. It is listed as Item 14 in the stipulation of counsel as to what shall constitute the record. The items in said stipulation are inserted in the record in the order set out in said stipulation. As the transcript filed on appeal is partially printed and partially typed it has not been consecutively paged and therefore page references to the transcript can not be made in this statement. Said decree appears at page —— of the printed record.

Application for the appeal was presented and appeal granted March 1, 1932. It is listed as Item 18 in the stipulation aforesaid. Said application for appeal appears at page —— of the printed record.

(c) This suit was brought for the purposes stated above in paragraph (a).

Upon motion made for an interlocutory injunction (Item 4 of the stipulation aforesaid), printed record, page ——, a statutory court of three Judges was duly convened to hear said cause and all motions therein, pursuant to the provisions of Section 266, Judicial Code, as amended, now Section 380 of Title 28, U. S. Code.

By its order and decree, entered December 9, 1931, the said Court denied the motion for an interlocutory injunction and dismissed the Bill of Complaint upon the sole ground that there existed an adequate remedy at law. This decree is listed as Item 14 of the stipulation aforesaid and appears at page —— of the printed record.

(d) Among the many cases believed to sustain the jurisdiction of this Court are:

Stratton v. St. Louis S. W. Ry., 282 U. S. 10.
Ohio Oil Company v. Conway (*Per curiam* Opinion), 279 U. S. 813.
Interstate Busses Corp. v. Blodgett, 276 U. S. 245.
Clark v. Poor, 274 U. S. 554.
Smith v. Wilson, 273 U. S. 388.
Brucker v. Fisher (C. C. A. 6), 49 F. (2d) 759.

ROBERT S. MARX, Cincinnati, O.,
FRANK E. WOOD, " "
HARRY KASFIR, " "
JOHN C. DOOLAN, Louisville, Ky.,
JAMES W. STITES, " "
Solicitors for Appellant.

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APR 22 1932

CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. [redacted] 28

FRED LEVY, ARNOLD H. LEVY, STUART G. LEVY, JAMES H. LEVY AND S. L. GREENEBAUM, PARTNERS TRADING AND DOING BUSINESS UNDER THE FIRM NAME OF LEVY BROS., - *Appellants,*

v.

JOHN B. LEWIS, SELDEN R. GLENN AND HENRY M. CLINE, INDIVIDUALLY AND AS MEMBERS OF THE STATE TAX COMMISSION OF THE COMMONWEALTH OF KENTUCKY, AND

J. DAN TALBOTT, INDIVIDUALLY AND AS AUDITOR OF PUBLIC ACCOUNTS OF THE COMMONWEALTH OF KENTUCKY, - - - - - *Appellees.*

STATEMENT AS TO BASIS OF JURISDICTION ON APPEAL.

ROBERT S. MARX, Cincinnati, O.,
FRANK E. WOOD, " "
HARRY KASFIR, " "
JOHN C. DOOLAN, Louisville, Ky.,
JAMES W. STITES, " "
Solicitors for Appellant.

WESTERFIELD-BONTE COMPANY, INCORPORATED, LOUISVILLE, KY.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. 829.

FRED LEVY, ARNOLD H. LEVY, STUART G. LEVY, JAMES H. LEVY AND S. L. GREENEBAUM, PARTNERS TRADING AND DOING BUSINESS UNDER THE FIRM NAME OF LEVY BROS., - *Appellants,*

versus

JOHN B. LEWIS, SELDEN R. GLENN AND HENRY M. CLINE, INDIVIDUALLY AND AS MEMBERS OF THE STATE TAX COMMISSION OF THE COMMONWEALTH OF KENTUCKY, AND J. DAN TALBOTT, INDIVIDUALLY AND AS AUDITOR OF PUBLIC ACCOUNTS OF THE COMMONWEALTH OF KENTUCKY, - - - - - *Appellees.*

STATEMENT AS TO BASIS OF JURISDICTION ON APPEAL.

In compliance with Rule 12 of this Court, this statement is filed as to the basis of this Court's jurisdiction of this cause on appeal.

(a) This suit was brought by appellants against the appellees, public officials of the Commonwealth of Kentucky, to enjoin them from enforcing or executing against appellant, and other taxpayers similarly situated, the provisions of a taxing statute enacted by the

General Assembly at its 1930 session, being Chapter 149 of the Session Acts of 1930, on the ground that such statute is violative of the Federal Constitution and the State Constitution in various respects therein set forth, and therefore void.

Appellants sought and obtained in the court below a restraining order, and pressed to a hearing an application for an interlocutory injunction to restrain the appellees from enforcing said Act.

A statutory court of three Judges was convened to hear said cause and all motions therein, pursuant to the provisions of Section 266, Judicial Code as amended, now Section 380 of Title 28, U. S. Code.

After notice and hearing, as therein required, the court below entered its order denying the motion of appellants for an interlocutory injunction and entered its decree denying a permanent injunction and dismissing the Bill of Complaint, but continued the restraining order in effect pending the hearing of this appeal.

This appeal has been taken from

(1) The decree denying appellants a permanent injunction and dismissing their Bill of Complaint, solely on the ground that appellants have an adequate remedy at law, and

(2) The order denying their application for an interlocutory injunction on the same ground.

By the provisions of Section 266, Judicial Code, now U. S. Code, Title 28, Section 380, and the provisions of Section 238, Judicial Code, now U. S. Code, Title 28, Section 345, a direct appeal to this Court from the

statutory court of three Judges is allowed from that court's order denying after notice and hearing an interlocutory injunction in this case.

In like manner, a direct appeal to this Court is by said sections allowed from the final decree therein denying a permanent injunction and dismissing the Bill of Complaint.

(b) The decree sought to be reviewed herein was entered on December 9, 1931. It is listed as Item 14 in the stipulation of counsel as to what shall constitute the record. The items in said stipulation are inserted in the record in the order set out in said stipulation. As the transcript filed on appeal is partially printed and partially typed, it has not been consecutively paged and therefore page references to the transcript can not be made in this statement. Said decree appears at page —— of the printed record.

Application for the appeal was presented and appeal granted March 1, 1932. It is listed as Item 18 in the stipulation aforesaid. Said application for appeal appears at page —— of the printed record.

(c) This suit was brought for the purposes stated above in paragraph (a).

Upon motion made for an interlocutory injunction (Item 4 of the stipulation aforesaid), printed record, page ——, a statutory court of three Judges was duly convened to hear said cause and all motions therein, pursuant to the provisions of Section 266, Judicial Code, as amended, now Section 380 of Title 28, U. S. Code.

By its order and decree, entered December 9, 1931, the said Court denied the motion for an interlocutory injunction and dismissed the Bill of Complaint upon the sole ground that there existed an adequate remedy at law. This decree is listed as Item 14 of the stipulation aforesaid and appears at page —— of the printed record.

(d) Among the many cases believed to sustain the jurisdiction of this Court are:

Stratton v. St. Louis S. W. Ry., 282 U. S. 10.
Ohio Oil Company v. Conway (*Per curiam* Opinion), 279 U. S. 813.
Interstate Busses Corp. v. Blodgett, 276 U. S. 245.
Clark v. Poor, 274 U. S. 554.
Smith v. Wilson, 273 U. S. 388.
Brucker v. Fisher (C. C. A. 6), 49 F. (2d) 759.

ROBERT S. MARX, Cincinnati, O.,
FRANK E. WOOD, " "
HARRY KASFIR, " "
JOHN C. DOOLAN, Louisville, Ky.,
JAMES W. STITES, " "
Solicitors for Appellant.

FILE COPY

APR 22 1932

CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. 29

THE J. C. PENNEY COMPANY, - - *Appellant,*

v.

JOHN B. LEWIS, SELDEN R. GLENN AND HENRY M. CLINE, INDIVIDUALLY AND AS MEMBERS OF THE STATE TAX COMMISSION OF THE COMMONWEALTH OF KENTUCKY, AND

J. DAN TALBOTT, INDIVIDUALLY AND AS AUDITOR OF PUBLIC ACCOUNTS OF THE COMMONWEALTH OF KENTUCKY, - - - - - - *Appellees.*

STATEMENT AS TO BASIS OF JURISDICTION ON APPEAL.

ROBERT S. MARX, Cincinnati, O.,
FRANK E. WOOD, " "
HARRY KASFIR, " "
JOHN C. DOOLAN, Louisville, Ky.,
JAMES W. STITES, " "
Solicitors for Appellant.

WESTERFIELD-BONTE COMPANY, INCORPORATED, LOUISVILLE, KY.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. 830.

THE J. C. PENNEY COMPANY, - - *Appellant,*

versus

JOHN B. LEWIS, SELDEN R. GLENN AND HENRY M. CLINE, INDIVIDUALLY AND AS MEMBERS OF THE STATE TAX COMMISSION OF THE COMMONWEALTH OF KENTUCKY, AND J. DAN TALBOTT, INDIVIDUALLY AND AS AUDITOR OF PUBLIC ACCOUNTS OF THE COMMONWEALTH OF KENTUCKY, - - - - - *Appellees.*

STATEMENT AS TO BASIS OF JURISDICTION ON APPEAL.

In compliance with Rule 12 of this Court, this statement is filed as to the basis of this Court's jurisdiction of this cause on appeal.

(a) This suit was brought by appellant against the appellees, public officials of the Commonwealth of Kentucky, to enjoin them from enforcing or executing against appellant, and other taxpayers similarly situated, the provisions of a taxing statute enacted by the

General Assembly at its 1930 session, being Chapter 149 of the Session Acts of 1930, on the ground that such statute is violative of the Federal Constitution and the State Constitution in various respects therein set forth, and therefore void.

Appellant sought and obtained in the court below a restraining order, and pressed to a hearing an application for an interlocutory injunction to restrain the appellees from enforcing said Act.

A statutory court of three Judges was convened to hear said cause and all motions therein, pursuant to the provisions of Section 266, Judicial Code as amended, now Section 380 of Title 28, U. S. Code.

After notice and hearing, as therein required, the court below entered its order denying the motion of appellant for an interlocutory injunction and entered its decree denying a permanent injunction and dismissing the Bill of Complaint, but continued the restraining order in effect pending the hearing of this appeal.

This appeal has been taken from

(1) The decree denying appellant a permanent injunction and dismissing its Bill of Complaint, solely on the ground that appellant has an adequate remedy at law, and

(2) The order denying its application for an interlocutory injunction on the same ground.

By the provisions of Section 266, Judicial Code, now U. S. Code, Title 28, Section 380, and the provisions of Section 238, Judicial Code, now U. S. Code, Title 28, Section 345, a direct appeal to this Court from the

statutory court of three Judges is allowed from that court's order denying after notice and hearing an interlocutory injunction in this case.

In like manner, a direct appeal to this Court is by said sections allowed from the final decree therein denying a permanent injunction and dismissing the Bill of Complaint.

(b) The decree sought to be reviewed herein was entered on December 9, 1931. It is listed as Item 14 in the stipulation of counsel as to what shall constitute the record. The items in said stipulation are inserted in the record in the order set out in said stipulation. As the transcript filed on appeal is partially printed and partially typed, it has not been consecutively paged and therefore page references to the transcript can not be made in this statement. Said decree appears at page —— of the printed record.

Application for the appeal was presented and appeal granted March 1, 1932. It is listed as Item 18 in the stipulation aforesaid. Said application for appeal appears at page —— of the printed record.

(c) This suit was brought for the purposes stated above in paragraph (a).

Upon motion made for an interlocutory injunction (Item 4 of the stipulation aforesaid), printed record, page ——, a statutory court of three Judges was duly convened to hear said cause and all motions therein, pursuant to the provisions of Section 266, Judicial Code, as amended, now Section 380 of Title 28, U. S. Code.

By its order and decree, entered December 9, 1931, the said Court denied the motion for an interlocutory injunction and dismissed the Bill of Complaint upon the sole ground that there existed an adequate remedy at law. This decree is listed as Item 14 of the stipulation aforesaid and appears at page —— of the printed record.

(d) Among the many cases believed to sustain the jurisdiction of this Court are:

Stratton v. St. Louis S. W. Ry., 282 U. S. 10.
Ohio Oil Company v. Conway (*Per curiam* Opinion), 279 U. S. 813.
Interstate Busses Corp. v. Blodgett, 276 U. S. 245.
Clark v. Poor, 274 U. S. 554.
Smith v. Wilson, 273 U. S. 388.
Brucker v. Fisher (C. C. A. 6), 49 F. (2d) 759.

ROBERT S. MARX, Cincinnati, O.,
FRANK E. WOOD, " "
HARRY KASFIR, " "
JOHN C. DOOLAN, Louisville, Ky.,
JAMES W. STITES, " "
Solicitors for Appellant.

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APR 22 193

CHARLES ELMORE CR
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. [redacted] 30

THE KROGER GROCERY & BAKING COMPANY, *Appellant*,

v.

JOHN B. LEWIS, SELDEN R. GLENN AND HENRY M. CLINE, INDIVIDUALLY AND AS MEMBERS OF THE STATE TAX COMMISSION OF THE COMMONWEALTH OF KENTUCKY, AND

J. DAN TALBOTT, INDIVIDUALLY AND AS AUDITOR OF PUBLIC ACCOUNTS OF THE COMMONWEALTH OF KENTUCKY, - - - - - *Appellees.*

STATEMENT AS TO BASIS OF JURISDICTION ON APPEAL.

ROBERT S. MARX, Cincinnati, O.,
FRANK E. WOOD, " "
HARRY KASFIR, " "
JOHN C. DOOLAN, Louisville, Ky.,
JAMES W. STITES, " "
Solicitors for Appellant.

WESTERFIELD-BONTE COMPANY, INCORPORATED, LOUISVILLE, KY.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

No. 831.

THE KROGER GROCERY & BAKING COMPANY, *Appellant,*

versus

JOHN B. LEWIS, SELDEN R. GLENN AND HENRY M. CLINE, INDIVIDUALLY AND AS MEMBERS OF THE STATE TAX COMMISSION OF THE COMMONWEALTH OF KENTUCKY, AND J. DAN TALBOTT, INDIVIDUALLY AND AS AUDITOR OF PUBLIC ACCOUNTS OF THE COMMONWEALTH OF KENTUCKY, - - - - - *Appellees.*

STATEMENT AS TO BASIS OF JURISDICTION ON APPEAL.

In compliance with Rule 12 of this Court, this statement is filed as to the basis of this Court's jurisdiction of this cause on appeal.

(a) This suit was brought by appellant against the appellees, public officials of the Commonwealth of Kentucky, to enjoin them from enforcing or executing against appellant, and other taxpayers similarly situated, the provisions of a taxing statute enacted by the

General Assembly at its 1930 session, being Chapter 149 of the Session Acts of 1930, on the ground that such statute is violative of the Federal Constitution and the State Constitution in various respects therein set forth, and therefore void.

Appellant sought and obtained in the court below a restraining order, and pressed to a hearing an application for an interlocutory injunction to restrain the appellees from enforcing said Act.

A statutory court of three Judges was convened to hear said cause and all motions therein, pursuant to the provisions of Section 266, Judicial Code as amended, now Section 380 of Title 28, U. S. Code.

After notice and hearing, as therein required, the court below entered its order denying the motion of appellant for an interlocutory injunction and entered its decree denying a permanent injunction and dismissing the Bill of Complaint, but continued the restraining order in effect pending the hearing of this appeal.

This appeal has been taken from

(1) The decree denying appellant a permanent injunction and dismissing its Bill of Complaint, solely on the ground that appellant has an adequate remedy at law, and

(2) The order denying its application for an interlocutory injunction on the same ground.

By the provisions of Section 266, Judicial Code, now U. S. Code, Title 28, Section 380, and the provisions of Section 238, Judicial Code, now U. S. Code, Title 28, Section 345, a direct appeal to this Court from the

statutory court of three Judges is allowed from that court's order denying after notice and hearing an interlocutory injunction in this case.

In like manner, a direct appeal to this Court is by said sections allowed from the final decree therein denying a permanent injunction and dismissing the Bill of Complaint.

(b) The decree sought to be reviewed herein was entered on December 10, 1931. It is listed as Item 28 in the stipulation of counsel as to what shall constitute the record. The items in said stipulation are inserted in the record in the order set out in said stipulation. As the transcript filed on appeal is partially printed and partially typed, it has not been consecutively paged and therefore page references to the transcript can not be made in this statement. Said decree appears at page —— of the printed record.

Application for the appeal was presented and appeal granted March 1, 1932. It is listed as Item 23 in the stipulation aforesaid. Said application for appeal appears at page —— of the printed record.

(c) This suit was brought for the purposes stated above in paragraph (a).

Upon motion made for an interlocutory injunction (Item 4 of the stipulation aforesaid), printed record, page ——, a statutory court of three Judges was duly convened to hear said cause and all motions therein, pursuant to the provisions of Section 266, Judicial Code, as amended, now Section 380 of Title 28, U. S. Code.

By its order and decree, entered December 9, 1931, the said Court denied the motion for an interlocutory injunction and dismissed the Bill of Complaint upon the sole ground that there existed an adequate remedy at law. This decree is listed as Item 28 of the stipulation aforesaid and appears at page —— of the printed record.

(d) Among the many cases believed to sustain the jurisdiction of this Court are:

Stratton v. St. Louis S. W. Ry., 282 U. S. 10.
Ohio Oil Company v. Conway (*Per curiam* Opinion), 279 U. S. 813.
Interstate Busses Corp. v. Blodgett, 276 U. S. 245.
Clark v. Poor, 274 U. S. 554.
Smith v. Wilson, 273 U. S. 388.
Brucker v. Fisher (C. C. A. 6), 49 F. (2d) 759.

ROBERT S. MARX, Cincinnati, O.,
FRANK E. WOOD, " "
HARRY KASFIR, " "
JOHN C. DOOLAN, Louisville, Ky.,
JAMES W. STITES, " "
Solicitors for Appellant.